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APPLICATION NO.	FILING DATE	FIRST NAMED INVENTOR	ATTORNEY DOCKET NO.	CONFIRMATION NO.
10/084,756	02/25/2002	Adolf Proidl	AT 010010	8274

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BRIARCLIFF MANOR, NY 10510

EXAMINER
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NGUYEN BA, HOANG VU A

ART UNIT	PAPER NUMBER
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2623

MAIL DATE	DELIVERY MODE
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11/14/2007

PAPER

**Please find below and/or attached an Office communication concerning this application or proceeding.**

The time period for reply, if any, is set in the attached communication.

<b>Office Action Summary</b>	<b>Application No.</b>	<b>Applicant(s)</b>	
	10/084,756	PROIDL, ADOLF	
	<b>Examiner</b>	<b>Art Unit</b>	
	Hoang-Vu A. Nguyen-Ba	2623	

**-- The MAILING DATE of this communication appears on the cover sheet with the correspondence address --**

**Period for Reply**

A SHORTENED STATUTORY PERIOD FOR REPLY IS SET TO EXPIRE 3 MONTH(S) OR THIRTY (30) DAYS, WHICHEVER IS LONGER, FROM THE MAILING DATE OF THIS COMMUNICATION.

- Extensions of time may be available under the provisions of 37 CFR 1.136(a). In no event, however, may a reply be timely filed after SIX (6) MONTHS from the mailing date of this communication.
- If NO period for reply is specified above, the maximum statutory period will apply and will expire SIX (6) MONTHS from the mailing date of this communication.
- Failure to reply within the set or extended period for reply will, by statute, cause the application to become ABANDONED (35 U.S.C. § 133). Any reply received by the Office later than three months after the mailing date of this communication, even if timely filed, may reduce any earned patent term adjustment. See 37 CFR 1.704(b).

**Status**

- 1) ☒ Responsive to communication(s) filed on 29 August 2007.
- 2a) ☐ This action is **FINAL**.                      2b) ☒ This action is non-final.
- 3) ☐ Since this application is in condition for allowance except for formal matters, prosecution as to the merits is closed in accordance with the practice under *Ex parte Quayle*, 1935 C.D. 11, 453 O.G. 213.

**Disposition of Claims**

- 4) ☒ Claim(s) 1-13 is/are pending in the application.
- 4a) Of the above claim(s) \_\_\_\_\_ is/are withdrawn from consideration.
- 5) ☐ Claim(s) \_\_\_\_\_ is/are allowed.
- 6) ☒ Claim(s) 1-13 is/are rejected.
- 7) ☐ Claim(s) \_\_\_\_\_ is/are objected to.
- 8) ☐ Claim(s) \_\_\_\_\_ are subject to restriction and/or election requirement.

**Application Papers**

- 9) ☐ The specification is objected to by the Examiner.
- 10) ☐ The drawing(s) filed on \_\_\_\_\_ is/are: a) ☐ accepted or b) ☐ objected to by the Examiner.  
Applicant may not request that any objection to the drawing(s) be held in abeyance. See 37 CFR 1.85(a).  
Replacement drawing sheet(s) including the correction is required if the drawing(s) is objected to. See 37 CFR 1.121(d).
- 11) ☐ The oath or declaration is objected to by the Examiner. Note the attached Office Action or form PTO-152.

**Priority under 35 U.S.C. § 119**

- 12) ☐ Acknowledgment is made of a claim for foreign priority under 35 U.S.C. § 119(a)-(d) or (f).
- a) ☐ All    b) ☐ Some \* c) ☐ None of:
1. ☐ Certified copies of the priority documents have been received.
2. ☐ Certified copies of the priority documents have been received in Application No. \_\_\_\_\_.
3. ☐ Copies of the certified copies of the priority documents have been received in this National Stage application from the International Bureau (PCT Rule 17.2(a)).

\* See the attached detailed Office action for a list of the certified copies not received.

**Attachment(s)**

- |  |   |
|--|---|
| 1) <input checked="" type="checkbox"/> Notice of References Cited (PTO-892)          | 4) <input type="checkbox"/> Interview Summary (PTO-413)           |
| 2) <input type="checkbox"/> Notice of Draftsperson's Patent Drawing Review (PTO-948) | Paper No(s)/Mail Date. _____                                      |
| 3) <input type="checkbox"/> Information Disclosure Statement(s) (PTO/SB/08)          | 5) <input type="checkbox"/> Notice of Informal Patent Application |
| Paper No(s)/Mail Date _____  | 6) <input type="checkbox"/> Other: _____                          |

### **DETAILED ACTION**

1. A request for continued examination under 37 CFR 1.114, including the fee set forth in 37 CFR 1.17(e), was filed in this application after final rejection. Since this application is eligible for continued examination under 37 CFR 1.114, and the fee set forth in 37 CFR 1.17(e) has been timely paid, the finality of the previous Office action has been withdrawn pursuant to 37 CFR 1.114. Applicant's submission filed on August 23, 2007 has been entered.
2. Claims 1-13 are pending. Claims 1, 5 and 10 are independent claims.

#### ***Response to Amendments***

3. Per Applicant's request, Claims 1-5, 7, 9-13 have been amended.
4. The objection to the specification because the title is not descriptive is withdrawn in view of Applicant's amendment to the title.

#### ***Response to Arguments***

5. Applicant's arguments in the Remarks filed concurrently with the Amendment After Final filed August 23, 2007 have been fully considered but are moot in view of the new ground of rejection presented herein.

#### ***Claim Objection***

6. Currently amended Claim 10 is objected to because of the following minor informalities:

at line 18, after "playback" delete "device".

Appropriate correction is required.

***Claim Rejections – 35 USC § 103***

7. The following is a quotation of the 35 U.S.C. § 103(a) which form the basis for all obviousness rejections set forth in this Office action:

(a) A patent may not be obtained though the invention is not identically disclosed or described as set forth in section 102 of this title, if the differences between the subject matter sought to be patented and the prior art are such that the subject matter as a whole would have been obvious at the time the invention was made to a person having ordinary skill in the art to which said subject matter pertains. Patentability shall not be negated by the manner in which the invention was made.

8. Claims 1-13 are rejected under 35 U.S.C. § 103(a) as being obvious over the admitted prior art of pages 1-2 of Applicant's background in view of U.S. Patent No. 6,473,749 to Smith et al. ("Smith").

**Currently Amended Claim 1**

APA discloses at least:

*recording a coded playback information item (~~CWI~~) (p.1, line 9, e.g., "a chargeable film is stored as coded playback information"), and recording a link information item (~~LI~~) which identifies an authorizing device authorized to grant a playback authorization for the coded playback information item (~~CWI~~) (p. 1, lines 12-15), and recording at least one recorder identification information item on a recording carrier with the aid of the recording device, the recorder identification information item identifying the recording device (p. 1, lines 19-21, e.g., "[i]f the user of the DVD unit has a valid account with the authorization device... the playback authorization for the chargeable film is then obtained..."; it is noted that in order to verify that the account is valid, the DVD unit has to send a recorder identification number stored thereon for the authorizing device to check the validity of this id number);*

*obtaining a playback authorization for the coded playback information item ~~(CWI)~~, played back with the aid of a one or more playback device devices associated with corresponding one or more second users from the recording carrier or from a copy of the recording carrier, from the authorizing device identified by the link information item ~~(LI)~~, in order to permit a pay per view billing of a playback charge* (p. 1, lines 16-25; and p. 1, last para., where it is described that the operator of the pay per view system could allow specific users of the system to receive a quantity rebate; it is thus construed that a pay per view system should have more than one user by design and thus should have means for billing these users accordingly);

*transferring the at least one recorder identification information item, played back from the recording carrier or from the copy of the recording carrier, to the authorizing device identified by the link information item ~~(LI)~~* (p. 1, lines 16-25);  
and

APA does not specifically disclose:

*determining the bonus information item ~~(BI)~~ for the first user of the recording device from the number of recorder identification information items transferred during a billing period to the authorizing device by ~~either~~ the one or more second users of the one or more playback device devices and identifying the recording device.*

However, in an analogous art, Smith teaches a method for managing file contents (e.g., image file content, news, etc.) whereby a user may receive a bonus based on the number of file contents contributed to the database/content provider, especially when these file contents are requested by other users (see at least 11:6-57).

It would have been obvious to a person of ordinary skill in the art at the time the invention was made to combine the bonus determining method taught

by Smith with that disclosed in the APA because this would help increase the number of users and thus the business.

### Currently Amended Claim 5

APA discloses at least *a playback device (e.g., "DVD unit") for obtaining a playback authorization for playing back (p. 1, lines, 18-19) a coded playback information ~~(CWI)~~ (p. 1, line 9) recorded on a recording carrier (e.g., "DVD disk") having playback means (e.g., "DVD unit) for playing back the coded playback information item ~~(CWI)~~ and for playing back a link information item ~~(LI)~~ which identifies an authorizing device authorized to grant the playback authorization for the coded playback information item, and for playing back at least one recorder identification information item from the recording carrier, the recorder identification information item identifying a recording device of a first user with the aid of which the coded playback information item ~~(CWI)~~ was recorded on the recording carrier (p. 1, line 6 to p. 2, line 2), and having communication means (e.g., "set top box") for establishing a communication link, identified by the link information item ~~(LI)~~, played back from the recording carrier, with the authorizing device, in order to obtain the playback authorization for the playback information item ~~(CWI)~~ played back from the recording carrier, the communication means being designed for transferring the at least one recorder identification information item, played back from the recording carrier, to the authorizing device (p. 1, line 6 to p. 2, line 2).*

APA does not specifically disclose:

*for providing a bonus information item ~~(BI)~~ for a the first user of the playback device from the number of recorder identification information items transferred during a billing period to the authorizing device by ~~other users of~~ a second user that uses the playback device to play back the coded playback information item.*

However, in an analogous art, Smith teaches a method for managing file

contents (e.g., image file content, news, etc.) whereby a user may receive a bonus based on the number of file contents contributed to the database/content provider, especially when these file contents are requested by other users (see at least 11:6-57).

It would have been obvious to a person of ordinary skill in the art at the time the invention was made to combine the bonus determining method taught by Smith with that disclosed in the APA because this would help increase the number of users and thus the business.

#### Currently Amended Claim 10

APA discloses, at least at p. 1, line 6 to p. 2, line 2, *an authorizing device* (p. 1, line 7) *for granting a playback authorization for playing back a coded playback information item (CWI) with the aid of a playback device one or more playback devices, and for determining a bonus information item (BI)* (p.1, line 26 to p. 2, line 2) *for a first user of a recording device, having communication means* (e.g., “set top box”) *for receiving a playback authorization inquiry information item (AFI)* (p. 1, lines 16-25; as discussed in the rejection of claim 1, this feature is deemed inherent to the process of checking the validity of the account described at p. 1, lines 19-21), *which identifies the playback device one or more playback devices and a coded playback information item (CWI) provided by the playback device one or more playback devices for playing back from the recording carrier, and which includes a recorder identification information item, the recorder identification information item identifying the recording device with the aid of which the coded playback information item (CWI) provided for playing back was recorded on the recording carrier, and having authorizing means for checking whether a successful pay per view billing of a playback charge is warranted for the user of the playback device one or more second users of the one or more playback devices and, in the event of a positive checking result,*

*for billing the playback charge to the one or more second users for playing back the coded playback information item (~~CWI~~), and for outputting a grant of playback authorization information item (~~WBI~~) to the playback device* (p. 1, last para., where it is described that the operator of the pay per view system could allow specific **users** of the system to receive a quantity rebate; it is thus construed that a pay per view system should have more than one user by design and thus should have means for billing these users accordingly).

APA does not specifically disclose *having bonus information determining means for determining the bonus information item (~~BI~~) for the first user of the recording device from the number of recorder identification information items transferred during a billing period to the authorizing device by ~~either~~ the one or more second users of the playback device one or more playback devices and identifying the recording device.*

However, in an analogous art, Smith teaches a method for managing file contents (e.g., image file content, news, etc.) whereby a user may receive a bonus based on the number of file contents contributed to the database/content provider, especially when these file contents are requested by other users (see at least 11:6-57).

It would have been obvious to a person of ordinary skill in the art at the time the invention was made to combine the bonus determining method taught by Smith with that disclosed in the APA because this would help increase the number of users and thus the business.

### **Currently Amended Claims 2 and 11 and Previously Presented Claim 6**

The combination APA-Smith further discloses *a recorder identification information item transferred to the authorizing device from the ~~playback device~~ one or more*



*playback devices when the playback authorization is obtained is only rated for determining the bonus information item ~~(BI)~~ for the first user of the recording device when the authorizing device has actually also granted the playback authorization for ~~this playback device~~ to the one or more playback devices (p.1, line 16 to p. 2, line 2; e.g., at p. 1, last para., where it is described that the operator of the pay per view system could allow specific users of the system to receive a quantity rebate; in view of the combination of APA with Smith, it is thus construed that the combined system would provide such claimed feature).*

#### **Currently Amended Claims 3, 7 and 13**

The combination APA-Smith further discloses *the link information item ~~(LI)~~ represents an Internet address of the authorizing device, and in which both the obtaining of the playback authorization from the authorizing device, and the transferring of the recorder identification information item to the authorizing device are performed via data lines of the Internet ~~(NET)~~* (APA; p.1, lines 13-15).

#### **Currently Amended Claims 4 and 12**

The combination APA-Smith further discloses *the authorizing device stores user data for billing the playback charge to the ~~user~~ one or more second users together with at least one recorder identification information item which identifies a recording device and/or playback device ~~of the user~~* (APA; p. 1, line 26 to p. 2, line 2; it is noted that in order to allow specific users of the system a quantity rebate, user data for billing has to be stored on the database of the authorizing device).

#### **Previously Presented Claim 8**

The combination APA-Smith further discloses *the playback means are designed for playing back all those recorder identification information items recorded on the recording carrier, which identify all those recording devices which have contributed to creating the copy of the recording carrier played back by the playback device, and in which the communication means are designed for transferring all the recorder identification information items, played back from the recording carrier, to the authorizing device* (WO99/03277, FIG. 1, items 2, e.g., DVHS video recorder and 3, e.g., DVD recorder; each has its own identification information).

#### **Currently Amended Claim 9**

The combination APA-Smith further discloses *recording means are provided which are designed for recording on the recording carrier the coded playback information item (~~CWT~~), the link information item (~~LI~~) and the recorder identification information item identifying the playback device* (WO99/03277, FIG. 1, items 2, e.g., DVHS video recorder and 3, e.g., DVD recorder; each has its own identification information).

#### **Conclusion**


9. The prior art made of record and not relied upon is considered pertinent to Applicant's disclosure.
10. Any inquiry concerning this communication or earlier communications from the examiner should be directed to Hoang-Vu "Antony" Nguyen-Ba whose telephone number is (571) 272-3701. The examiner can normally be reached on Tuesday-Friday from 7:00 am to 5:30 pm.

If attempts to reach the examiner are unsuccessful, the examiner's supervisor, John Miller can be reached at (571) 272-7353.

The fax phone number for the organization where this application or proceeding is assigned is (571) 273-8300.

Any inquiry of a general nature or relating to the status of this application should be directed to the TC 2600 Group receptionist (571) 272-2600.

Information regarding the status of an application may be obtained from the Patent Application Information Retrieval (PAIR) system. Status information for published applications may be obtained from either Private PAIR or Public PAIR. Status information for unpublished applications is available through Private PAIR only. For more information about the PAIR system, see <http://pair-direct.uspto.gov>. Should you have questions on access to the Private PAIR system, contact the Electronic Business Center (EBC) at (866) 217-9197 (toll-free).



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November 12, 2007